IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 8TH JUNE 2007 / 18TH JYAISHTA 1929

WP(C).No. 16820 of 2007(B)

{O.S.NO.411/1999 OF THE MUNSIFF-MAGISTRATE COURT, SASTHAMCOTTA

.....

PETITIONERS:

1. MAHADOOR RAWTHER,THANDAM PARAMBIL (RANDAM PARAMBIL),IVERKALA EAST POST, KUNNATHOOR VILLAGE,KUNNATHOR TALUK.

2. PATHUMMA BEEVI, W/O.MAHADOOR RAWTHER, IN DO...DO....

BY ADVS. SRI.K.JAYAKUMAR
SRI.P.B.KRISHNAN
SRI.R.SURAJ KUMAR
SMT.GEETHA P.MENON

RESPONDENT:

THE CATHOLIC SYRIAN BANK LTD, KADAMPANAD BRANCH, REPRESENTED BY ITS BRANCH MANAGER.

BY ADV.SRI.K.ANAND

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS:

EXT.P1: DATED 20.12.1999, TRUE COPY OF THE JUDGMENT IN O.S.NO.411/99, MUNSIFF-MAGISTRATE, SASTHAMCOTTA.

EXT.P2: DATED 17.10.2006, TRUE COPY OF THE OBJECTION TO E.P.20/2006 IN O.S.NO.411/99 FILED BY THE PETITIONERS.

EXT.P3: DATED 27.12.2006, TRUE COPY OF THE OBJECTION TO E.A.126/2006 IN E.P.20/2006 IN O.S.411/1999 FILED BY THE PETITIONERS.

EXT.P4: DATED 12.02.2007, TRUE COPY OF THE ORDER IN E.A.NO.126/2006 IN E.P.20/2006 IN O.S.NO.411/1999.

EXT.P5: DATED NIL, TRUE COPY OF THE PROCLAMATION.

EXT.P6: DATED 03.04.2007, TRUE COPY OF THE ORDER IN E.P.20/2006 IN O.S.411/99.

RESPONDENTS' EXHIBITS: NIL

//true copy//

P.S. To Judge

SK/-

M.N.KRISHNAN, J.

W.P.(C) No.16820 2007 B

Dated this the 8th day of June, 2007.

JUDGMENT

This writ petition is preferred against the order of the Executing Court i.e. Munsiff-Magistrate Court, Sasthamcotta in E.P.No.20/06 in O.S.No.411/99.

2. In execution of the decree, the property of the judgment debtors was sold in auction and the decree holder had purchased it for Rs.64,000/- and he has been permitted to adjust the same towards the decree debt. The sale has been confirmed on 4.6.2007.

3. The main objection raised by the judgment debtors is that there was no need to sell the property for recovery of the decree debt. It is seen that the entire property has been sold for Rs.64,000/-, whereas the decree debt exceeds the same. The decree holder is a scheduled bank and it will be satisfied if the amount is paid in full. Hence, I feel that an opportunity can be given to the judgment debtors to wipe off the liability.

4. Therefore, the writ petition is disposed of as follows:

(1) Writ petitioners are directed to make payment towards the decree debt in three equal monthly instalments, commencing from **09.07.2007**.

(2) If the entire decree debt is wiped off within the stipulated time, the sale shall stand set aside and

(3) if there is failure on the part of the judgment debtors to pay the amount, as stipulated above, the Executing Court can confirm the sale and proceed in accordance with law.

Sd/-

(M.N.KRISHNAN)

JUDGE

sk/

//true copy//

P.S. To Judge